REMARKS

This Amendment is submitted response to the official action that issued on May 26, 2009. The claim amendments included herein are merely clarifying amendments and are not meant to change the intended scope of the claims. Thus, the amendments present the rejected claims in better form for consideration on appeal, and they should be entered in due course. Moreover, the amendments are manifest, requiring only a cursory review by the Examiner, thereby providing additional ground for their entry.

Claims 28-34 were pending in the application. In the official action, claims 28-34 were rejected. In this Amendment, claims 28, 31, and 34 have been amended. Claims 28-34 thus remain for consideration.

Applicant submits that claims 28-34 are in condition for allowance and requests withdrawal of the rejections in light of the following remarks.

§103 Rejections

Claims 28-34 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kidder (U.S. Patent 6,363,413) in view of Parkkinen et al. (U.S. Patent 7,072,366).

Applicant submits that the independent claims (claims 28, 31, and 34) are patentable over Kidder and Parkkinen (collectively "the cited references).

Applicant's invention as recited in the independent claims is directed toward a content server, a terminal, and a method of distributing content. Each of the claims recites the use of "base data representing the content at a first quality" and upgrading data, "the upgrading data being difference data that is combined with the base data to generate data representing the content at a second quality that is higher than the first quality." Supporting disclosure for the quoted

5

recitation can be found in the specification at, for example, page 25, lines 11-22.

Neither of the cited references discloses the quoted recitation. In particular, Applicant notes that Kidder appears to disclose the transmission of "different versions" of a video clip, and the combining of versions of a video clip, but does not disclose the transmission of "upgrade data" as recited by Applicant. That is, Kidder appears to disclose the transmission of different versions of a video clip for purposes of combining the versions to form a new version, but does not disclose the transmission of a version and difference data for purposes of combining the version with the difference data to form a new version. (See e.g., Kidder column 6, line 66 – column 8, line 33.)

Accordingly, Applicant believes that claims 28, 31, and 34 are patentable over the cited references - taken either individually or in combination - on at least this basis.

Further, since dependent claims inherit the limitations of their respective base claims, Applicant believes that dependent claims 29, 30, 32, and 33 are patentable over the cited references for at least the same reasons as discussed in connection with the independent claims.

Applicant respectfully submits that all of the claims now pending in the application are in condition for allowance, which action is earnestly solicited. If any issues remain, or if the Examiner has any further suggestions, he/she is invited to telephone the undersigned at (908) 654-5000.

The Examiner is hereby authorized to charge any insufficient fees or credit any overpayment associated with the above-identified application to Deposit Account No. 12-1095.
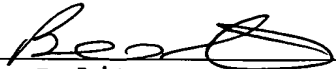
The Examiner's consideration of this matter is gratefully acknowledged.

Dated: August 7, 2009   Respectfully submitted,

                                          By_____
                                          Bruno Polito
                                          Registration No.: 38,580
                                          LERNER, DAVID, LITTENBERG,
                                            KRUMHOLZ & MENTLIK, LLP
                                          600 South Avenue West
                                          Westfield, New Jersey   07090
                                          (908) 654-5000
                                          Attorney for Applicant

1036022_1.DOC